



Town of Groton, Connecticut

Meeting Minutes

Town Council Committee of the Whole

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Mayor Harry A. Watson, Councilors Peter J. Bartinik, Jr., Heather Sherman Bond, Catherine Kolnaski, Frank O'Beirne, Jr., John F. Scott, Paulann H. Sheets, James L. Streeter, and Elissa T. Wright.

Tuesday, July 25, 2006

6:00 PM

Town Hall Annex - Community Room 1

SPECIAL MEETING

1. CALL TO ORDER

Mayor Watson called the meeting to order at 6:05 p.m.

2. ROLL CALL

Members Present: Mayor Watson, Councilor Bond, Councilor O'Beirne, Jr., Councilor Scott, Councilor Sheets and Councilor Streeter

Members Absent: Councilor Bartinik, Jr., Councilor Kolnaski and Councilor Wright

Also present were Town Manager Mark Oefinger, Assistant to the Town Manager Lee Vincent and Executive Assistant Nicki Bresnyan.

3. Calendar and Communications

None.

4. Approval of Minutes

2006-0212 Approval of Minutes (Committee of the Whole)

RESOLUTION ACCEPTING COMMITTEE OF THE WHOLE MINUTES

RESOLVED, that the minutes of the Town Council Committee of the Whole of July 11, 2006 are hereby accepted and approved.

A motion was made by Councilor Scott, seconded by Councilor Streeter, to adopt.

The motion carried by the following vote:

Votes: In Favor: 5 - Mayor Watson, Councilor Bond, Councilor O'Beirne, Jr., Councilor Scott and Councilor Streeter

Abstain: 1 - Councilor Sheets

5. UNFINISHED BUSINESS

None.

6. NEW BUSINESS

Councilor Wright arrived at 6:09 p.m.

Members Present: Mayor Watson, Councilor Bond, Councilor O'Beirne, Jr., Councilor Scott, Councilor Sheets, Councilor Streeter and Councilor Wright

Members Absent: Councilor Bartinik, Jr. and Councilor Kolnaski

FOI Discussion with Tom Hennick, Education Officer for FOI Commission

Mr. Tom Hennick, Education Officer for the Freedom of Information Commission, stated his goal is to make Freedom of Information (FOI) easy for the Council to understand. He noted that he is not an attorney and his background is in journalism. Mr. Hennick is also a member of the Board of Education in his town. FOI is about providing open and accessible government, which eliminates suspicion and mistrust. It guarantees access to meetings and records. Mr. Hennick noted that the Act is not simple or easy to understand. Compliance with FOI has a lot to do with the interpretation of the Act by both the Council and the public. Every decision is a series of

interpretations until the FOI Commission or the Court makes a ruling.

Mr. Hennick addressed access to meetings, and read the definition of a meeting. A meeting needs to be posted, open to the public, and have minutes prepared. A common question is whether or not a quorum is necessary to adhere to the FOI rules. Mr. Hennick stated the answer is yes and no because there are two diametrically opposed opinions that have not yet been clarified by the court. At this time, the FOI Commission recommends following the rules as defined by FOI in all cases. Mr. Hennick review the "non-meeting" exceptions for the purpose of FOI, e.g. collective bargaining strategy sessions, executive level personnel searches, and caucusing if no one outside of the group is invited in. Mr. Hennick reviewed the differences between regular, special, and emergency meetings. No business can be added to a special meeting notice/agenda within 24 hours of the meeting. He also noted that the bar is very high for emergency meetings (e.g. flood, famine). Emergency meetings do not have to be noticed, but minutes must be on file within 72 and must identify the nature of the emergency.

All meetings are open to the public. They can be taped or videotaped according to rules, provided the rules are established ahead of time. FOI does not give people the right to speak at a meeting. Speaking at a meeting is entirely at the discretion of the Board. FOI does not have jurisdiction over speaking rules (e.g. restricting non-residents from speaking, including at public hearings, eliminating the speaking portion of an agenda, etc.).

Executive sessions allow the Council to exclude the public. The vote to enter executive session must be recorded, and the attendees/invitees listed. Any deliberation by the group should be done alone and invitees should be asked to leave. A group should never vote in executive session. There are five specific reasons that could be cited for entering executive session:

- personnel issues (except that the individual can request that the meeting be held in public)*
- pending claims or litigation (including consideration of litigation)*
- security matters*
- sale or lease of property*
- review of documents exempt from disclosure*

Votes at a meeting must be available within 48 hours, and the minutes must be available within 7 days.

A meeting includes a meeting utilizing electronic equipment. When the Act was first written 30 years ago, that meant by telephone, but it now includes e-mails. Councilors should not have any meaningful discussion of issues by e-mail, even absent a quorum because of the dueling opinions. Councilors should not get into a back and forth conversation because those types of discussion should be held in public. Councilor Sheets asked about contacting other Councilors in an attempt to line up votes on a resolution, which she described as the essence of getting things done. Mr. Hennick cautioned the Council about such a practice. Councilors can contact members of their own party (caucus), but beyond that, they would be risking violation of FOI. This is Mr. Hennick's interpretation since there has been no case study on the subject yet. Councilor Bond asked about arguing a position with other Councilors over the telephone or by e-mail. Again, Mr. Hennick cautioned the Council and Councilor Bond suggested that FOI would slow everything down. When asked about calling other Councilors after a meeting to talk about individual positions, Mr. Hennick stated that the potential for violation depends on the extent of the interchange. The FOI law also discourages "serial" meetings. Practically, these conversations go on all the time, but it becomes a problem when someone finds out about it, files a complaint, and the FOI rules and issues a fine for holding an illegal meeting. The spirit of the law requires open government.

Councilor Sheets explained for the public's benefit that discussions that take place outside of the meeting between Councilors are part of the process of talking to each other informally, analyzing

issues, getting information to advance the Council's ability to deliberate, and prepare to take action as a Council.

Councilor Wright asked Mr. Hennick to clarify the in the definition of "meeting" what items fall under the Council's jurisdiction. Mr. Hennick stated that as the Town Council and lead governing body of the Town, nearly every issue would be considered within the Council's jurisdiction. FOI does not address the issue of Councilors as individuals writing letters, unless they represent the position of the Council as a whole. Councilor O'Beirne described a previous situation where five Councilors developed a letter to the editor, using e-mail, that was sent and published in response to an editorial in the local paper. The five Councilors were not all of the same party. Mr. Hennick explained that the proper way to handle this situation would have been to notice the meeting, perhaps as a subcommittee. Again, this is a matter of interpretation, and since no one challenged it, the ultimate outcome remains unknown.

Mr. Hennick read the definition of public records. Every record held by every public agency is a public record and anyone can view them or copy them. There are exceptions, exemptions and exclusions for some records and people should be familiar with what they are. If a document is not exempt, the public must be allowed a "no questions asked" review. If they request a copy, the Town has the right to ask for the request in writing, charge up to .50 per page, and collect the fee up front if the total bill is over \$10.00. A person has four business days to respond to a request for records and indicate how long it will take to produce the records. "Promptly" means "without undue delay", and is in the eyes of the beholder. There is no requirement to physically turn the document over to the requester, nor is there a requirement to create a record or research a record (with the understanding that there is a fine line between searching and researching. Mr. Hennick noted the following:

- exceptions: federal law or state statutes
- exclusions: records that include the home addresses of police officers, corrections officers, or judges (difficult to comply with and conflicts with other state laws)
- exemptions: permissive exemptions (e.g. preliminary drafts or notes, personnel files if it would result in an invasion of privacy, law enforcement records, pending litigation, trade secrets, tax returns, security, etc.)

A record includes e-mails created in the conduct of the public's business. E-mails received from citizens and Councilors' responses would be public records. If they are deleted, they are no longer a record.

Town Clerk Tarbox noted that retention schedules allow general correspondence to be destroyed after two years, but policy correspondence must be retained indefinitely.

Mr. Hennick described the process for filing a complaint with the FOI Commission and noted that any ruling of the FOI Commission can be appealed in court. He encouraged Councilors to call him with any questions.

In response to a question, Mr. Hennick noted that in 1999, a survey found that towns were in horrible compliance with FOI. The state then gave the towns an opportunity to form their own advisory FOI commissions. The FOI Commission extrapolated and offered FOI liaison training sessions (attended by Barbara Tarbox). The program was cut due to budget constraints, but they are trying to recreate the program.

Mayor Watson thanked Mr. Hennick for his presentation. The Council recessed at 7:36 p.m. and reconvened at 7:47 p.m.

2006-0005

Labor Negotiations (2006 Standing Referral)

A motion was made by Mayor Watson, seconded by Councilor Scott, that the members of the Council,

together with the Town Manager, Special Labor Counsel Eileen Duggan, Doug Ackerman, and Joyce Sauchuk go into "executive session" for the purpose of reviewing records, reports and statements of strategy or negotiations with respect to collective bargaining. This action is taken without prejudice and the Council's right to discuss in private, strategy and/or negotiations with respect to collective bargaining pursuant to Connecticut General Statutes §1-200(2).

The motion carried unanimously

Discussed

The executive session ended at 8:23 p.m.

A motion was made by Mayor Watson, seconded by Councilor Bond, to recommend a resolution approving the funds necessary to implement the Police Union agreement.

The motion carried unanimously

2003-0198

Public Water & Sewer on Flanders Road/Industrial area

Discussed

Town Manager Oefinger noted the Flanders Road business owners would like to brief the Council on recent issues. The Council had previously decided to table this item until the Economic Strategic Plan was completed. That document has been finalized and is at the printer. Councilor Bond recognized Dave Cote who distributed a handout. Mr. Cote reviewed the document and the histories of Merocel, Aqua Massage International, and Tylaska Marine. He reviewed excerpts from the Strategic Plan. The group expressed support, with some concerns, for Alternate A (water) and Alternate J (sewer) identified in the Flanders Road study.

Tim Tylaska noted he has a waiting list for businesses that would like to locate in this area, and he is working on plans to expand his business park.

Councilor Bond left at 8:55 p.m.

Roll Call: Members Present: Mayor Watson, Councilor O'Beirne, Jr., Councilor Scott, Councilor Sheets, Councilor Streeter and Councilor Wright

Members Absent: Councilor Bartinik, Jr., Councilor Bond and Councilor Kolnaski

Discussed

Sam Sisisky reiterated that there is a limited amount of developable land available in Groton. He cited numerous past studies of the industrial area. He noted concerns with the cost estimates in the Flanders Road study. Councilor O'Beirne asked what new information is available and he challenged some of the comments made. He noted that state funds are not available for bringing sewer and water to an industrial park.

Town Manager Oefinger noted that the purpose of this meeting was not to second-guess the engineering estimates. The value of the numbers is for comparison purposes only, until final engineering can be done.

Mr. Sisisky suggested that the Council hire a third engineering firm to review the costs associated with the preferred alternatives.

Jim Musante expressed support for the utility extension and the existing businesses on Flanders and Noank-Ledyard Roads. He asked the Council to face the fact that the sewer and water issue has to be addressed.

2006-0045

2006 Revaluation

Discussed

Sal Pandolfo requested a supplemental appropriation for the 2006 revaluation. State law has changed and the Town is now required to review every parcel in the revaluation.

resolution authorizing a supplemental appropriation of \$27,400 in the Revaluation Fund for FYE 2007 for the 2006 revaluation.

The motion carried unanimously

2006-0204

Steamboat Wharf Cleaning

Recommended for a Resolution

Town Manager Oefinger stated that Town staff continues to meet with representatives of Steamboat Wharf. He provided a brief history of this issue. The Town's intent has been to identify a long-term solution. Previous attempts to conduct an annual cleaning by vacuuming were not successful. The Town ultimately found a contractor with the proper equipment, but the problem is that the sediment plume has now grown too large to reach it from land. Approximately \$13,000 of appropriated funds is remaining. There will be a large dredging project across the river this fall and the Town is attempting to piggyback this project on that project. The state is no longer participating in the discussions. The Town Manager is seeking authorization from the Town Council to access the remaining funds, which may get the state back to the bargaining table. John Carrington further noted that piggybacking this project may not work because of time constraints on the overall project. The Town is also working on a plan to trap the sediments before they get into the drainage system.

Councilor Wright left at 9:30 p.m.

Roll Call: Members Present: Mayor Watson, Councilor O'Beirne, Jr., Councilor Scott, Councilor Sheets and Councilor Streeter

Members Absent: Councilor Bartinik, Jr., Councilor Bond, Councilor Kolnaski and Councilor Wright

Discussed

Councilor Sheets noted that the Town is not obligated to the state or Steamboat Wharf, so she questioned if it is appropriate to participate in this project. The Town Manager explained that some of the sediment comes from Town streets. It is the state's responsibility because they own the drainage system, but the Town is playing an appropriate role in bringing all three parties to the table.

Discussion followed on DEP permitting requirements. The Town Manager explained that DEP recognizes that the Town is trying to address the issue even though it is not the Town's problem.

A motion was made by Councilor Scott, seconded by Councilor Sheets, to recommend a resolution authorizing the Town Manager to use the remainder of the funds that were previously appropriated for cleaning of the Steamboat Wharf lagoon.

The motion carried unanimously

1999-0206

Noank Hatchery Proposal

Discussed

There is no new information on this item. The administrative fee that the Town will pay is approximately \$2800. Town Council and RTM action will be required.

2006-0211

Groton Historical Society Update

Discussed

Councilor Streeter stated he is very pleased with the Committee and their progress. In order for the Historical Society to file for 501(c)(3) status, they need a name, a mission statement, and bylaws, which are currently under development. The officer positions have been tentatively filled. A local attorney has offered to file papers free of charge. The committee has received an offer from the Avery Copp Association to utilize their upgraded carriage shed. The committee is also looking at two alternate locations for a permanent facility.

7. Consideration of Committee Referral Items as per Town Council Referral List

None.

8. OTHER BUSINESS

None.

9. ADJOURNMENT

A motion was made by Councilor Sheets, seconded by Councilor Scott, to adjourn the meeting at 9:40 p.m.

The motion carried unanimously.